

November 15, 2001

Mr. Ronald L. Wascom, Administrator
Environmental Assistance Division
Office of Environmental Services
Louisiana Department of Environmental Quality
7220 Bluebonnet Road
P.O. Box 82135
Baton Rouge, LA 70884-2135

Dear Mr. Wascom:

We have reviewed the final regulations Louisiana Administrative Code, Title 33, Part XV, Radiation, Chapters 1-4 and 20: (1) LAC:33:XV:390, 403, Clean Air Act; Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State; (2) LAC:33:XV:332, Radiological Criteria for License Termination; (3) LAC:33:XV:302, Deliberate Misconduct by Unlicensed Persons; and (4) LAC:33:XV:102, 403, 406, 410, 412, 417, 431, 432, 470, 476, 486, 487, 1502, 20.13, and 2031, Minor Corrections, Clarifying Changes, and a Minor Policy Change. The final regulations are in response to the 1997-2, 1997-6, 1998-1, and 1998-5 amendments identified in the enclosed State Regulation Status (SRS) Data Sheet. The review was based on Mr. Robert P. Hannah's letter dated May 21, 2001.

The regulations were reviewed by comparison to the equivalent NRC regulations in 10 CFR Part 20, Sections 20.1003, 20.1101, 20.1201, 20.1203, 20.1208, 20.1402, 20.1403, 20.1502, 20.2101, 20.2106, 20.2202, 20.2203; 10 CFR 30, Section 30.10; 10 CFR 39, Sections 39.33, 39.71; 10 CFR 71; and 10 CFR 150, Section 150.20.

In addition, we reviewed our April 13, 2001 letter to you that addressed the proposed regulations. We also discussed our review of the regulations with Ms. Sharon Parker on July 2, and September 25, 2001.

As a result of the NRC review, we have identified two comments, as enclosed. These comments must be addressed to meet the compatibility and health and safety categories established in the Office of State and Tribal Programs (STP) Procedure [SA-200](#). The Louisiana Deliberate Misconduct Rule is compatible provided that the unlicensed person, who is the direct or indirect subject of the enforcement action taken in accordance with Louisiana Administrative Code, Title 33, Part XV, Radiation Protection, is afforded the opportunity to appeal the enforcement action to the State.

We request that when the regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in STP Procedure [SA-201](#), *Review of State Regulations* (November 10, 1998), please highlight any changes and send one hard copy to STP.

Ronald L. Wascom

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The SRS Data Sheet summarizes our knowledge of other Louisiana regulations. Please let us know if you note any inaccuracies or have any comments on the information contained in the SRS Data Sheet. This letter including the SRS Data Sheet is posted on the STP Web Site: <http://www.hsrc.ornl.gov/nrc/rulemaking.htm>.

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact me or Linda McLean at (817) 860-8116 or mlm1@nrc.gov.

Sincerely,

/RA/

Frederick C. Combs, Deputy Director
Office of State and Tribal Programs

Enclosures:
As stated

Distribution:

DIR RF (1-109)

DCD (SP08)

SDroggitis

PDR (YES)

Response to Incoming: ML011510385

KSchneider, ASPO

Louisiana File

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OFFICE	RSAO/RIV	STP	OGC	STP:DD	
NAME	MLMcLean (By JZabko)	JZabko:gd:kk	STreby	FCombs	
DATE	08/29/01 11/14/01	08/29/01 10/13/01	10/22/01	08/30/01 11/01/01	

ML013100191

STP-AG-12

**COMMENTS ON LOUISIANA REGULATIONS
AGAINST COMPATIBILITY AND HEALTH AND SAFETY CATEGORIES**

State Regulation ¹ or SSR	NRC Regulation or SSR ²	RATS ID	Category	Subject and Comments
417 (a)	20.1208 (c)	1998-5	B	<p>Dose equivalent to an embryo/fetus</p> <p>The addition of the phase “in the mothers lower torso region” is not compatible with the NRC regulation.</p> <p>The phrase needs to be removed to meet compatibility.</p>
2013 (a)	39.33 (a)	1998-5	B	<p>Radiation detection instruments</p> <p>The phrase “and temporary job sites” was left out in the requirements to keep instruments at the field stations.</p> <p>Temporary job sites must be included as a place to store calibrated, operational radiation survey instruments, to meet compatibility.</p>

¹For other generic legally binding requirements, change State Regulations to LBR.

²Use NRC regulation when the review is conducted against the equivalent NRC regulation. Use SSR when the review is conducted against the SSR equivalent which NRC has concurred.

STATE REGULATION STATUS

State: Louisiana

[5 final amendments (5/21/01) reviewed are identified by a ★ at the beginning of each equivalent NRC regulation.]

Tracking Ticket Number: 1-109

Date: November 15, 2001

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
Safety Requirements for Radiographic Equipment-Part 34	55 FR 843; (1/10/94)	1991-1			6/94
ASNT Certification of Radiographers-Part 34	56 FR 11504; (none)	1991-2			Not required ³
Standards for Protection Against Radiation-Part 20	56 FR 23360; 56 FR 61352; 57 FR 38588; 57 FR 57877; 58 FR 67657; 59 FR 41641; 60 FR 20183; (1/1/94)	1991-3	P	N 10/15/98	6/94
Notification of Incidents-Parts 20, 30, 31, 34, 39, 40, 70	56 FR 64980; (10/15/94)	1991-4			6/95
Quality Management Program and Misadministrations-Part 35	56 FR 34104; (1/27/95)	1992-1			11/98
Eliminating the Recordkeeping Requirements for Departures from Manufacturer's Instructions-Parts 30,35	57 FR 45566; (none)	1992-2			Not required ³
Decommissioning Recordkeeping and License Termination: Documentation Additions [Restricted areas and spill sites]-Parts 30, 40	58 FR 39628; (10/25/96)	1993-1	P	N 4/4/97	
Licensing and Radiation Safety Requirements for Irradiators-Part 36	58 FR 7715; (7/1/96)	1993-2			Not applicable SECY-95-112 ⁴
Definition of Land Disposal and Waste Site QA Program-Part 61	58 FR 33886; (7/22/96)	1993-3	P	N 4/4/97	Not applicable SECY-95-112 ⁴
Self-Guarantee as an Additional Financial Mechanism-Parts 30, 40, 70	58 FR 68726; 59 FR 1618 (none)	1994-1	F	N 1/6/99	Not required ³ 11/98
Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards-Part 40	59 FR 28220; (7/1/97)	1994-2			Not applicable to LA
Timeliness in Decommissioning Material Facilities-Parts 30, 40, 70	59 FR 36026; (8/15/97)	1994-3	F	N 1/6/99	11/98
Preparation, Transfer for Commercial Distribution, and Use of Byproduct Material for Medical Use-Parts 30, 32, 35	59 FR 61767; 59 FR 65243 60 FR 322; (1/1/98)	1995-1	F	N 1/6/99	11/98
Frequency of Medical Examinations for Use of Respiratory Protection Equipment-Part 20	60 FR 7900; (3/13/98)	1995-2	F	N 1/6/99	10/96
Low-Level Waste Shipment Manifest Information and Reporting-Parts 20, 61	60 FR 15649; 60 FR 25983 (3/1/98)	1995-3	F	N 1/6/99	11/98

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Performance Requirements for Radiography Equipment-Part 34	60 FR 28323; (6/30/98)	1995-4	F	N 1/6/99	9/97
Radiation Protection Requirements: Amended Definitions and Criteria-Parts 19, 20	60 FR 36038; (8/14/98)	1995-5	F	N 1/6/99	11/98
Clarification of Decommissioning Funding Requirements-Parts 30, 40, 70	60 FR 38235; (11/24/98)	1995-6	F	N 1/6/99	11/98
Medical Administration of Radiation and Radioactive Materials-Parts 20, 35	60 FR 48623; (10/20/98)	1995-7	F	N 1/6/99	11/98
10 CFR Part 71: Compatibility with the International Atomic Energy Agency-Part 71	60 FR 50248; 61 FR 28723 (4/1/99)	1996-1	P	Y 6/29/00	6/20/00
One Time Extension of Certain Byproduct, Source and Special Nuclear Materials Licenses- Parts 30, 40, 70	61 FR 1109; (none)	1996-2			Not required ³
Termination or Transfer of Licensed Activities: Recordkeeping Requirements-Parts 20, 30, 40, 61, 70	61 FR 24669; (6/17/99)	1996-3	P	N 6/29/00	5/20/00
*Resolution of Dual Regulation of Airborne Effluents of Radioactive Materials; Clean Air Act- Part 20	61 FR 65120; (1/9/00)	1997-1	F ML011510385	N 11/15/01 ML013100191	
*Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State-Part 150	62 FR 1662; (2/27/00)	1997-2	F ML011510385	N 11/15/01 ML013100191	
Criteria for the Release of Individuals Administered Radioactive Material-Parts 20, 35	62 FR 4120; (5/29/00)	1997-3	F	N 1/6/99	11/98
Fissile Material Shipments and Exemptions-Part 71	62 FR 5907; (none)	1997-4			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiography Operations-Parts 30, 34, 71, 150	62 FR 28948; (6/27/00)	1997-5	P ML010460171	Y 4/13/01 ML011060084	
*Radiological Criteria for License Termination-Parts 20, 30, 40, 70	62 FR 39058; (8/20/00)	1997-6	F ML011510385	N 11/15/01 ML013100191	
Exempt Distribution of a Radioactive Drug Containing One Microcurie of Carbon-14 Urea-Part 30	62 FR 63634; (1/02/01)	1997-7	F	N 1/6/99	11/98
*Deliberate Misconduct by Unlicensed Persons-Parts 30, 40, 61, 70, 71, 150	63 FR 1890; 63 FR 13773 (2/12/01)	1998-1	F ML011510385	N 11/15/01 ML013100191	
Self-Guarantee of Decommissioning Funding by Nonprofit and Non-Bond-Issuing Licensees- Parts 30, 40, 70	63 FR 29535; (none)	1998-2			Not required ³
License Term for Medical Use Licenses-Part 35	63 FR 31604; (none)	1998-3			Not required ³
Licenses for Industrial Radiography and Radiation Safety Requirements for Industrial Radiographic Operations-Part 34	63 FR 37059; (7/9/01)	1998-4	P ML010460171	Y 4/13/01 ML011060084	

NRC Chronology Identification	FR Notice (State Due Date)	RATS ID	Proposed (P) / Final (F) ¹ Rule / ML # ⁵	NRC Review / Y, N ² / Date / ML # ⁵	Final State Regulation ¹ (Effective Date)
*Minor Corrections, Clarifying Changes, and a Minor Policy Change-Parts 20, 35, 36	63 FR 39477; 63 FR 45393 (10/26/01)	1998-5	F ML011510385	Y 11/15/01 ML013100191	
Transfer for Disposal and Manifests: Minor Technical Conforming Amendment-Part 20	63 FR 50127; (11/20/01)	1998-6			
Radiological Criteria for License Termination of Uranium Recovery Facilities-Part 40	64 FR 17506; (6/11/02)	1999-1			
Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information-Part 31	64 FR 42269; (none)	1999-2			Not required ³
Respiratory Protection and Controls to Restrict Internal Exposure-Part 20	64 FR 54543; 64 FR 55525 (2/2/03)	1999-3			
Energy Compensation Sources for Well Logging and Other Regulatory Clarifications-Part 39	65 FR 20337; (5/17/03)	2000-1			
New Dosimetry Technology-Parts 34, 36, 39	65 FR 63749; (1/8/04)	2000-2			

1. Or other generic Legally Binding Requirements.
2. (Y/N) Y means "Yes," there are comments in the review letter that the State needs to address. N means "No," there are no comments in the review letter.
3. Not required means these regulations are not required for purposes of compatibility.
4. A State need not adopt a specific regulation if the State has no licensees that would be subject to that regulation. See: "Final Policy Statement on Adequacy and Compatibility of Agreement State Programs," III.1. Time Frame for Adoption of Compatible State Regulations, p. 6, SECY-95-112, May 3, 1995.
5. ADAMS ML Number